

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2191 – SB 2176

January 31, 2012

SUMMARY OF BILL: Creates an offense to conceal, harbor, shield from detection, transport, move, or attempt to transport any person known to be an illegal alien. A violation is a Class E felony, provided that a violation is a Class D felony if the violation involves transporting illegal drugs for the purpose of distribution; transporting an illegal alien identified to be members of organized crime or terrorist organizations; transporting an illegal alien to engage in prostitution; or transporting an illegal alien for contract labor or human slavery. A violation is a Class C felony if the above involve a minor; a Class B felony if the violation results in serious bodily injury to any individual; and a Class A felony if the violation results in the death of any individual. It is a separate offense for each illegal alien involved. Notwithstanding any other law, fines received as a result of a violation will be allocated to the arresting agency. Exempts employees of institutions required by federal law to provide services to illegal aliens. Deletes exemption for common carriers and individuals being transported for religious purposes. Any property used as an instrumentality in a violation is subject to judicial forfeiture.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$9,500/Incarceration*

Other Fiscal Impact – In addition to incarceration, a court may issue a fine for felony offenses which will be allocated to the arresting agency. Revenue generated from property forfeiture will result in an increase in state and local revenue. Because no statistics are currently available, these increases in revenue cannot be determined with reasonable certainty.

Assumptions:

- Public Chapter 242 of 2007 enacted Tenn. Code Ann. § 39-17-114 which created a misdemeanor offense, punishable by a fine up to \$1,000, for transporting illegal aliens into the state; this legislation will delete the current language in that section entirely. The estimated fiscal impact in 2007 was minimal. According to the Administrative Office of the Courts, there have been zero convictions in the trial courts under current law since its effective date of July 1, 2007. Statistics are not maintained from General Sessions courts.
- There is not sufficient data available regarding violations of Tenn. Code Ann. § 39-17-

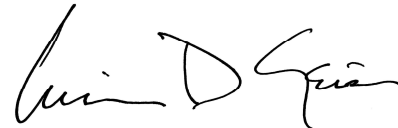
114; therefore, the precise fiscal impact of deleting this language cannot be determined with reasonable certainty.

- Any decrease in fine revenue from eliminating the misdemeanor offense will be offset by a greater increase in fine revenue for felony offenses and forfeitures of property. Because no statistics are currently available, the net increase in revenue cannot be determined with reasonable certainty.
- The Department of Correction (DOC) estimates one additional offender every three years will receive a Class E felony. According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. No significant incarceration cost increase will occur due to population growth in this period.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on one offender every three years.
- According to DOC, the average operating cost per offender per day for calendar year 2012 is \$61.36. The average post-conviction time served for a Class E felony is 1.28 years (467.52 days) at a cost of \$28,687.03 (\$61.36 x 467.52 days).
- The annualized time served per conviction is 154.28 days (0.33 annual number of convictions x 467.52 days served). The annualized cost per conviction is \$9,466.62 (\$61.36 x 154.28 days).

**Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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